

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TERRANCE GREENE,

Plaintiff,

-against-

COMMISSIONER DANIEL F. MARTUSCELLO;
SUPERINTENDENT MARLYN KOPP; C.O. K.
BARNES,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: <u>09/12/2024</u>

24-CV-5228 (NSR)

ORDER OF SERVICE

NELSON S. ROMÁN, United States District Judge:

Plaintiff, who is currently incarcerated at the Essex Correctional Facility in Newark, New Jersey, brings this action under 42 U.S.C. § 1983, alleging that Defendants were deliberate indifferent to his serious medical needs while he was confined at Sing Sing Correctional Facility (“Sing Sing C.F.”). By order dated September 7, 2024, the Court granted Plaintiff’s request to proceed *in forma pauperis* (“IFP”), that is, without prepayment of fees.¹ The Court directs service on the defendants.

DISCUSSION

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.² *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all

¹ Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed IFP. *See* 28 U.S.C. § 1915(b)(1).

² Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have effected service until the Court reviewed the complaint and ordered that any summonses be issued. The Court therefore extends the time to serve until 90 days after the date any summonses issue.

process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP).

To allow Plaintiff to effect service on Defendants Commissioner Daniel Martuscello of the New York State Department of Corrections and Community Supervision; Superintendent Marilyn Kopp of Sing Sing C.F.; and Correctional Officer K. Barnes of Sing Sing C.F through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for each of these defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendants.

If the complaint is not served within 90 days after the date summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

CONCLUSION

The Clerk of Court is further instructed to issue a summons for each defendant, complete a USM-285 form with the address for each defendant, and deliver all documents necessary to effect service to the U.S. Marshals Service.

The Clerk of Court is directed to mail a copy of this order to Plaintiff at the address listed on ECF, together with an information package, and to show service on the docket.

SO ORDERED.

Dated: September 12, 2024
White Plains, New York



NELSON S. ROMÁN
United States District Judge

SERVICE ADDRESS FOR EACH DEFENDANT

1. Commissioner Daniel Martuscello
New York State Department of Corrections and Community Supervision
1220 Washington Avenue
Bldg 2
Albany, New York 12226-2050
2. Superintendent Marlyn Kopp
Sing Sing Correctional Facility
354 Hunter Street
P.O. Box 442
Ossining, New York 10562-5442
3. K. Barnes, Correctional Officer
Sing Sing Correctional Facility
354 Hunter Street
P.O. Box 442
Ossining, New York 10562-5442